

**BRAINTREE BOARD OF HEALTH**

**MINUTES**

**April 20, 2017**

**IN ATTENDANCE:** Dr. Arthur Bregoli, Chairman  
Dr. Philip Nedelman, Vice-Chairman

**ALSO PRESENT:** Marybeth McGrath, Director of ML & I

Dr. Bregoli called the meeting to order at 7:00 pm.

**MINUTES:**

**Motion By:** Dr. Nedelman to approve the meeting minutes of March 16, 2017.  
**Second By:** Dr. Bregoli

**NEW BUSINESS:**

1) Request for Lifeguard Variance:

a. Royal Lake Village Condominium Trust-3 Royal Lake Drive

Ms. McGrath advised the Royal Lake Village Condominium Trust is requesting the renewal of their annual lifeguard variance for the outdoor swimming pool. The condominium trust has provided the daily bather logs per month from January 2016-December 2016 for review. They are requesting a full variance of the lifeguard provision.

**Motion By:** Dr. Nedelman to approve the variance request, as submitted.  
**Second By:** Dr. Bregoli

b. Jonathan's Landing-400 John Mahar Highway

Ms. McGrath advised the Board that Jonathan's Landing is requesting the annual renewal of the partial lifeguard variance. They will have lifeguards on the weekday afternoons, weekends and holidays for the swimming pool season. They are requesting a variance of the lifeguard provision for early morning hours of 8:30am to 12:00pm during the week when it is much slower. The residents must use the electronic key card to gain access to the pool enclosure through the clubhouse building, which is then electronically recorded on the pool log.

Dr. Nedelman asked what the requirement is for the number of lifeguards per bather.

Ms. McGrath advised that the state regulation requires one lifeguard per twenty-five bathers.

**Motion By:** Dr. Nedelman to approve the variance request, as submitted.  
**Second By:** Dr. Bregoli

c. Devonwood Condominium-One Devon Commons Lane

Ms. McGrath advised the Board that Devonwood Condominium is requesting the annual renewal of the partial lifeguard variance. They will have lifeguards on the weekends and holidays for the swimming pool season. They are requesting a variance of the lifeguard provision during the week when it is much slower. The residents must use the electronic key card to gain access to the pool enclosure through the clubhouse.

**Motion By:** Dr. Nedelman to approve the variance request.  
**Second By:** Dr. Bregoli

2. Request for Keeping of Chickens:

a. Ruberci Soares de Morais-306 Commercial Street  
Present: Roberci Soares de Morais, tenant

Ms. McGrath advised the Board that Mr. Soares de Morais lives at 306 Commercial Street and he would like to keep chickens there. The Department discovered previously that he was keeping chickens on the property and was not aware that he needed a permit. At that time, he removed the chickens. The department has been working with him to make application for the keeping of chickens. The property owner has agreed that he has no objections to the chickens being on the property. If Mr. Soares de Morais is allowed to keep the chickens on the property, then he would like to keep up to ten chickens.

Mr. Soares de Morais showed the Board members on the plot plan where on the property the chicken coop would be located. It will be in the rear left side of the property with the coop being ten feet off of the rear and side property lines.

**Motion By:** Dr. Nedelman to approve the request for variance for the keeping of 10 chickens and NO roosters at 306 Commercial Street by Mr. Soares de Morais.  
**Second By:** Dr. Bregoli

b. Jose Romero Gonzales-8 Tingley Circle  
Present: Jose Romero Gonzales, property owner  
Patricia Mahoney, Neighbor  
Joan, Neighbor

Ms. McGrath advised the Board that Mr. Romero Gonzales lives at 8 Tingley Circle and is requesting to keep 5 chickens on his property. All of the abutters have been notified of the request for the keeping of the chickens. Mr. Gonzales has provided a plot plan indicating that the chicken coop will be ten feet off of the back and side property lines.

Ms. Mahoney and Joan, neighbors of Mr. Gonzales spoke in favor of Mr. Gonzales request to keep chickens on his property. They just want to make certain that the chickens will be safe from wildlife.

Ms. McGrath advised that Mr. Gonzales will have the chickens in a fenced chicken coop area, with the fencing buried into the ground for the safety of the chickens from wildlife.

**Motion By:** Dr. Nedelman to approve the request for variance for the keeping of 5 chickens at 8 Tingley Circle.

**Second By:** Dr. Bregoli

3. Sale of Tobacco Violations:

Present: Jerry McLaughlin, Tobacco Compliance Officer

a. 777 Lucky Corner-250 Granite Street

Present: Diya Patel, owner

Mr. McLaughlin advised the Board that on March 24, 2017 and March 27, 2017, compliance checks were conducted in the town of Braintree for compliance with the Sale of Tobacco and Nicotine Delivery Product regulation.

On March 27, 2017 at approximately 5:17pm, a compliance check was conducted at 777 Lucky Corner located at the South Shore Plaza at 250 Granite Street. At that time, an eighteen year old male approached the kiosk with a twenty dollar bill that was given to him by Mr. McLaughlin, for the purpose of purchasing a tobacco product. Specifically, to ask for a package of Marlboro cigarettes. The individual had no other monies or identifications on him when he approached the kiosk. He did conduct a transaction by purchasing a package of Marlboro cigarettes for the price of \$ 10.61. Upon exiting the kiosk area, he went directly to Mr. McLaughlin, who was in the vicinity of the kiosk. He handed Mr. McLaughlin the monies from the twenty dollar bill and the package of cigarettes, which was kept by Mr. McLaughlin and marked as evidence upon returning to his vehicle.

Mr. McLaughlin advised that the clerk that sold the cigarettes was a young adult working at the kiosk.

Ms. Patel advised the Board that she apologizes for the sale that occurred, as she has some new employees. *Remainder of statement by Ms. Patel is inaudible on the tape.*

Ms. McGrath advised the Board that the establishment is now under new ownership, so this is considered a first offense for this establishment. The penalty for a first offense is a five day suspension of the tobacco product and nicotine delivery product sales permit, a one hundred dollar fine and within thirty days of the first day of the suspension all employees involved in the sale of tobacco products and nicotine delivery products must receive merchant education training.

Dr. Nedelman asked when the change in ownership of the establishment occurred.

Ms. Patel advised September 2016.

**Motion By:** Dr. Nedelman to impose the penalty for a first offense effective Friday April 21, 2017 at 12:00pm through Wednesday April 26, 2017 at 12:00pm.

**Second By:** Dr. Bregoli

- b. Cumberland Farms # 3499-831 Washington Street  
Present: Willie Quan, Store Manager  
Al Misrati, District Manager

Mr. McLaughlin advised the Board that on March 24, 2017 and March 27, 2017, compliance checks were conducted in the town of Braintree for compliance with the Sale of Tobacco and Nicotine Delivery Product regulation.

Mr. McLaughlin advised that on March 24, 2017 at approximately 4:40pm, an eighteen year old entered the premises of Cumberland Farms located at 831 Washington Street for the purpose of buying a tobacco product. Specifically, to ask for a package of Marlboro cigarettes. When he left Mr. McLaughlin's vehicle, he had no monies on him except the money that Mr. McLaughlin gave him for the compliance check which was twenty dollars. All identifications and personal items were left in the vehicle. He entered the establishment and conducted a transaction for a package of Marlboro's. At that time, the clerk did not ask him for an ID or for his age. He returned directly to Mr. McLaughlin's car with the Marlboro cigarettes, and handed Mr. McLaughlin the cigarettes purchased and the change from the twenty dollar bill. Mr. McLaughlin then marked the cigarettes as evidence. The package of Marlboro cigarettes was purchased for \$ 10.72. The clerk was an adult male.

Al Misrati, the District Manager of Cumberland Farms advised the Board that he does admit that they sold a tobacco product to a minor. He looked at the video himself. It is their company policy that all employees must card anyone that looks under the age of thirty, and any employee hired is required to go through an enhanced We Card tobacco education program that expires annually, so the employee must retrain yearly. He is not sure what happened, but could see that the person did come in and was not asked for an ID and handed a pack of cigarettes.

Dr. Nedelman advised Mr. Misrati that their system did not work very well.

Mr. Misrati advised the Board that this location has not had a tobacco violation in over eight years.

Ms. McGrath advised that the Board that the last time that there was a sale at this location was a first sale on March 26, 2007 and second sale September 7, 2007, so ten years ago.

Dr. Nedelman advised that their system is working well then, except for this compliance check.

Mr. Misrati advised the Board that a new policy has been instituted at this location that all employees and the manager will have to take the training every thirty days, instead of annually.

Dr. Nedelman asked what happens to the person who sold the product.

Mr. Misrati advised that before it would be immediate termination of the employee, but Cumberland Farms has softened a bit and now it is a final notice for the first offense and termination for a second

offense. Additionally, all employees are required to be trained every thirty days at this location, and must scan in all identification cards into the system.

Ms. McGrath asked for some details of the enhanced tobacco education program.

Mr. Quan advised of the details of Cumberland Farms tobacco education program.

Ms. McGrath advised that Mr. McLaughlin can make a determination after reviewing their program, if it meets the requirements of the regulation for merchant education training.

Ms. McGrath advised the Board that this is a first offense for this establishment. The penalty for a first offense is a five day suspension of the tobacco product and nicotine delivery product sales permit, a one hundred dollar fine and within thirty days of the first day of the suspension all employees involved in the sale of tobacco products and nicotine delivery products must receive merchant education training.

**Motion By:** Dr. Nedelman to impose the penalty for a first offense effective Friday April 21, 2017 at 12:00pm through Wednesday April 26, 2017 at 12:00pm.

**Second By:** Dr. Bregoli

- c. Boston Food Shops & Deli-390 Washington Street  
Present: Mohamed Iskandar, Owner

Mr. McLaughlin advised the Board that on March 24, 2017 and March 27, 2017, compliance checks were conducted in the town of Braintree for compliance with the Sale of Tobacco and Nicotine Delivery Product regulation.

Mr. McLaughlin advised that on March 24, 2017 at approximately 5:05pm, an eighteen year old male enter the establishment of Boston Food Shops located at 390 Washington Street for the purpose of buying a tobacco product. Specifically, a package of Marlboro cigarettes. He left Mr. McLaughlin's vehicle with no monies or ID's on him, except the money provided by Mr. McLaughlin, which was a twenty dollar bill to purchase the tobacco product. He did enter the establishment and conducted a transaction for a pack of Marlboro's for \$ 10.32. He returned directly to Mr. McLaughlin's vehicle and gave the cigarettes to Mr. McLaughlin, which was immediately marked as evidence. The clerk did not ask for an ID or ask his age. The clerk was a young adult female.

Mr. Iskandar advised the Board that the price of the cigarettes is wrong, and he does not have a female clerk working on Friday.

Mr. McLaughlin advised that was the price of the cigarettes purchased at Boston Food Shop, and the clerk was a young adult female.

Ms. McGrath asked Mr. Iskandar if he has a video.

Mr. Iskandar advised that he does have a video in the store. *Remainder of Mr. Iskandar's statement is inaudible.*

Mr. McLaughlin advised that all he can do is give testimony of what the buyer came out with, with the change from the twenty dollars given to him. Under the current laws, the only thing that you can ask regarding a description of the clerk is a male or female, and whether it was an adult, younger adult, older adult or teenager.

Dr. Nedelman again asked if Mr. Iskandar has a video of this transaction.

Mr. Iskandar advised that he have a video in the store.

Dr. Nedelman and Ms. McGrath both asked him if he has the sale on video.

Mr. Iskandar advised that he has cameras in the store.

Ms. McGrath advised that he keeps saying that he has cameras in the store, but does he have this sale or transaction on the video.

Mr. Iskandar advised that he hasn't looked at the video.

Ms. McGrath advised the Board that this is a first offense for this establishment. The penalty for a first offense is a five day suspension of the tobacco product and nicotine delivery product sales permit, a one hundred dollar fine and within thirty days of the first day of the suspension all employees involved in the sale of tobacco products and nicotine delivery products must receive merchant education training.

**Motion By:** Dr. Nedelman to impose the penalty for a first offense effective Friday April 21, 2017 at 12:00pm through Wednesday April 26, 2017 at 12:00pm.

**Second By:** Dr. Bregoli

**d. Seven Eleven-51 Commercial Street**  
Present: Mohamad Iskandar, owner

Mr. McLaughlin advised the Board that on March 24, 2017 and March 27, 2017, compliance checks were conducted in the town of Braintree for compliance with the Sale of Tobacco and Nicotine Delivery Product regulation.

Mr. McLaughlin advised the Board that on March 24, 2017 at approximately 5:25pm, an eighteen year old male entered the establishment of Seven Eleven located at 51 Commercial Street for the purpose of buying a tobacco product. Specifically, a package of Marlboro cigarettes. The individual left Mr. McLaughlin's vehicle with no ID's and no monies, except the money provided to him by Mr. McLaughlin, which was a twenty dollar bill. He did enter the establishment. He was asked for an ID, but was not asked for his age. He said he did not have an ID, and the sale was still made. The clerk was a male adult. The price of the product was \$ 10.22. He came directly back to Mr. McLaughlin's vehicle and gave Mr. McLaughlin the cigarettes. Mr. McLaughlin immediately marked them as evidence.

Dr. Nedelman asked Mr. Iskandar if this transaction is on video, and has he had time to look at it..

Mr. Iskandar advised that it is on video, but he did not look at it because he did not know what time the transaction occurred.

Mr. McGrath advised Mr. Iskandar that he can call her to obtain the time of the transaction.

Mr. Iskandar advised that he knows that.

Ms. McGrath advised that this is the second offense for this establishment within a two year period. The previous offense occurred on June 13, 2016, which is within two years. The penalty for a second offense is a ten day suspension of the tobacco product and nicotine delivery product sales permit and a three hundred dollar fine.

**Motion By:** Dr. Nedelman to impose the penalty for a second offense effective Friday April 21, 2017 at 12:00pm through Monday May 1, 2017 at 12:00pm.

**Second By:** Dr. Bregoli

- e. Luke's Convenience Store-411 Pond Street  
Present: Bobby Patel, owner

Mr. McLaughlin advised the Board that on March 24, 2017 and March 27, 2017, compliance checks were conducted in the town of Braintree for compliance with the Sale of Tobacco and Nicotine Delivery Product regulation.

Mr. McLaughlin advised the Board that on March 24, 2017 at approximately 4:30pm, an eighteen year old male exited his vehicle and entered Luke's Convenience Store located at 411 Pond Street for the purpose of buying a tobacco product. Specifically, a package of Marlboro cigarettes. He left Mr. McLaughlin's vehicle with no ID's and no monies, except the money provided to him by Mr. McLaughlin, which was a twenty dollar bill. He entered the establishment and did purchase a package of Marlboro cigarettes for a price of \$ 9.95. He returned directly to Mr. McLaughlin's vehicle and handed Mr. McLaughlin the cigarettes, which were immediately marked as evidence by Mr. McLaughlin. The product was purchased from a male older adult. He was not asked for an ID and did not ask his age.

Ms. McGrath advised that this is the first offense within a two year period. The previous offense was in December 2012.

Mr. Patel did not make a statement.

Ms. McGrath advised the Board that this is a first offense for this establishment. The penalty for a first offense is a five day suspension of the tobacco product and nicotine delivery product sales permit, a one hundred dollar fine and within thirty days of the first day of the suspension all employees involved in the sale of tobacco products and nicotine delivery products must receive merchant education training.

**Motion By:** Dr. Nedelman to impose the penalty for a first offense effective Friday April 21, 2017 at 12:00pm through Wednesday April 26, 2017 at 12:00pm.

**Second By:** Dr. Bregoli

**OTHER BUSINESS:**

Ms. McGrath advised the Board that she received an email from Ray MacDonald, a Braintree resident requesting the Board's review and consideration to not support any new gas pipelines in Braintree, and to send a letter to Governor Baker regarding the same.

Dr. Nedelman and Bregoli advised that they will take it under advisement, and requested the email request be placed on the April 20, 2017 Board of Health meeting agenda when Mrs. Melchionda will be present.

**Motion By:** Dr. Nedelman to adjourn the meeting at 7:40 pm.

**Second By:** Dr. Bregoli